



INTERIOR BOARD OF INDIAN APPEALS

Galen LaPlante, et al. v. Billings Area Director, Bureau of Indian Affairs

19 IBIA 261 (03/15/1991)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

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| GALEN LAPLANTE, BRADLEY LAPLANTE, | : | Order Docketing and Dismissing |
| KELLY J. LAPLANTE, DALE LAPLANTE, | : | Appeal |
| and FRANCIS D. LAPLANTE, | : | |
| Appellants | : | |
| | : | |
| v. | : | Docket No. IBIA 91-52-A |
| | : | |
| BILLINGS AREA DIRECTOR, | : | |
| BUREAU OF INDIAN AFFAIRS, | : | |
| Appellee | : | March 15, 1991 |

On March 4, 1991, the Board of Indian Appeals (Board) received a notice of appeal from Galen LaPlante, for himself and Bradley LaPlante, Kelly J. LaPlante, Dale LaPlante, and Francis D. LaPlante (appellants). Appellants seek review of a February 1, 1991, decision of the Billings Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning the allocation of Blackfeet Range Unit (RU) 212, apparently for the 1990 grazing season. The Board requested a copy of the Area Director's decision, which was received on March 12, 1991.

The appeal is docketed under the above case name and number which should be cited in all future correspondence or inquiries regarding the matter. The Board finds, however, that the circumstances of this case require that the appeal be dismissed without prejudice.

From the Area Director's decision, it appears that the Blackfeet Agency Superintendent allocated RU 212 to Pamela LaPlante Crawford and Oscar K. Crawford (Crawfords). Appellants had also applied for this unit. Both the Area Director's decision and appellants' notice of appeal indicate that the Superintendent's decision was based upon a decision by the Blackfeet Tribal Allocation Committee (BTAC).

The Area Director's decision notes that, under 25 CFR 166.10, the Superintendent implements the tribal governing body's allocation program on individually owned land, subject to the eligibility requirements established by the tribe. The tribal eligibility requirements must be approved by the Superintendent. The decision quotes the six criteria established by the tribe for the allocation program, and discusses the application of those criteria under the circumstances of this case. The Area Director stated: (1) application of the criteria favored award of RU 212 to the Crawfords; and (2) awarding a range unit on the basis of several brands put the tribe "in a precedent setting action that will take away all ability for them to continue structured support of the existing familial allocation system" (Decision at page 5). The decision concluded: "Therefore, by copy of this

letter to the Superintendent and BTBC [Blackfeet Tribal Business Committee], we are returning the case to them for additional deliberation in light of the findings and implicating actions on future decisions. To us, RU 291 could be allocated to Kelly LaPlante only, and RU 212 allocated to [the Crawfords]" (Decision at pages 5-6). The Area Director informed the parties that his decision could be appealed to the Board.

The Area Director did not reverse the Superintendent's decision, but instead remanded the matter "for followup action" and "for additional deliberation." It thus appears that the Superintendent is not required to reach a particular decision on remand, but must only consider the issues raised by the Area Director, perhaps in conjunction with such consideration by the BTAC.

Under these circumstances, the Board finds that the allocation determination is still an open question, which should be considered first by the BTAC and the Superintendent. In making his decision, the Superintendent can also consider the issues raised by appellants in their notice of appeal.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Billings Area Director's February 1, 1991, decision is dismissed without prejudice. Any party adversely affected by the decision ultimately made may appeal that decision to the Board.

//original signed

Kathryn A. Lynn
Chief Administrative Judge

//original signed

Anita Vogt
Administrative Judge